

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

In re: SCOTT PAUL COLLINS, Debtor.	Chapter 13 Case No. 19-41136-EDK
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STIPULATION

NOW COME the parties, through their respective undersigned counsel, and request that this Honorable Court enter the following stipulation as an order of the Court.

STATEMENT OF MATERIAL FACTS

1. Scott Paul Collins (the “**Debtor**”) is an individual who asserts an ownership interest in the real property known as and numbered 24 Friendship Street, Billerica, Massachusetts (the “**Property**”).
2. U.S. Bank Trust National Association as Trustee of Igloo Series IV Trust, as serviced by Rushmore Loan Management Services (“**U.S. Bank Trust**”) has a principal place of business located at 7114 E. Stetson Drive, Suite 250, Scottsdale, Arizona.
3. On April 1, 2005, the Debtor and non-filing codebtor Joyanne Collins executed and delivered to Downey Savings and Loan Association, F.A. (the “**Lender**”) a note in the original amount of \$341,250.00 (the “**Note**”). Simultaneously therewith, as security for the obligations under the Note, the Debtor and Codebtor executed and delivered to the Lender a mortgage (the “**Mortgage**”) on the Property.

4. U.S. Bank Trust is the assignee of the Mortgage.

The Bankruptcy

5. On July 11, 2019, the Debtor filed a Chapter 13 petition, commencing the above-captioned case.

6. On April 20, 2021, the Debtor filed a post-confirmation amended Chapter 13 plan providing for the cure of prepetition arrears and maintenance of ongoing post-petition payments owed pursuant to the Note and Mortgage.

7. On December 14, 2021, U.S. Bank Trust filed its motion for relief from stay regarding the Note, Mortgage and Property, alleging post-petition arrears owed as the grounds for relief from stay (the “**Motion for Relief**”). Doc. No. 146.

8. On December 28, 2021, the Debtor filed an opposition to the Motion for Relief. Doc. No. 148.

WHEREAS, the parties hereto desire to resolve all differences between them, the parties STIPULATE and AGREE as follows:

- A. The Debtor acknowledges and agrees that the monthly payment amount under the Note and Mortgage as of September 2021 was \$2,087.31. The Debtor also acknowledges and agrees that he is currently delinquent on his post-petition payments under the Note and Mortgage and, therefore, there exists good cause to grant U.S. Bank Trust relief from the automatic stay regarding the Property.
- B. The Debtor acknowledges and agrees that the post-petition arrears, including the April 2022 payment, total \$6,605.36 (the “**Post-Petition Arrears**”), comprised of the following:
 - 1. \$6,261.93 in monthly mortgage payments for February 2022 through April 2022 (3 x \$2,087.31);

2. \$1,238.00 that U.S. Bank Trust has incurred in legal fees and costs in filing and prosecuting the Motion for Relief; less
3. \$894.57 that U.S. Bank Trust is holding as a post-petition credit.

C. The parties agree to the following:

1. The Debtor shall pay the regular monthly mortgage payments on the Property as they become due, beginning with the May 2022 payment through the stipulation period ending on October 15, 2022; and
2. In addition to the regular monthly mortgage payments on the Property, the Debtor shall make the following payments to U.S. Bank Trust or its successor-in-interest to cure the Post-Petition Arrears:
 - a. Five (5) monthly payments of \$1,100.89 on or before the fifteenth of every month starting on May 15, 2022 and through September 15, 2022; and
 - b. One (1) monthly payment of \$1,100.91 on or before October 15, 2022.
3. **IF THE DEBTOR FAILS TO MAKE THE PAYMENTS IN THE AMOUNTS AND BY THE DEADLINES DESCRIBED IN PARAGRAPH C(1) OR C(2) OF THIS STIPULATION, U.S. BANK TRUST (OR ITS SUCCESSORS-IN-INTEREST, IF ANY) MAY FILE, AFTER TEN (10) DAYS WRITTEN NOTICE OF DEFAULT TO THE DEBTOR AND THE DEBTOR'S ATTORNEY, BY FIRST CLASS POSTAGE PREPAID, AN AFFIDAVIT OF NONCOMPLIANCE (THE "AFFIDAVIT") THAT WILL REQUEST, AMONG OTHER THINGS, THAT THIS COURT GRANT U.S. BANK TRUST RELIEF FROM THE AUTOMATIC STAY, WITHOUT FURTHER HEARING, SO THAT U.S. BANK TRUST MAY PURSUE ITS RIGHTS AND REMEDIES PURSUANT TO THE NOTE AND MORTGAGE INCLUDING BUT NOT LIMITED TO PURSUING ITS RIGHT TO FORECLOSE THE MORTGAGE AND TO PURSUE SUMMARY PROCESS PROCEEDINGS.**
4. The Debtor shall have the right to object to the Affidavit of Non-Compliance only on the basis that the payments were made timely under this Stipulation Agreement. All reasonable costs associated with

the preparation and filing of the Affidavit of Non-Compliance will be charged to the Debtor's mortgage account.

5. All payments shall be made to the payment address provided on the Claims Register, and will clearly state the loan number on the payment.

D. By entering into this Stipulation, U.S. Bank Trust in no way waives or forfeits its rights to collect any pre-petition or post-petition arrears under applicable law, and in no way alters the terms, conditions, or its rights under the Note and Mortgage.

<p>U.S. BANK TRUST NATIONAL ASSOCIATION AS TRUSTEE OF IGLOO SERIES IV TRUST, AS SERVICED BY RUSHMORE LOAN MANAGEMENT SERVICES,</p> <p>By its attorneys,</p> <p>DEMERLE HOEGER LLP,</p> <p><u>/s/Michael E. Swain</u> Richard C. Demerle, Esq. (BBO#652242) Michael E. Swain, Esq. (BBO#676513) 10 City Square, 4th Floor Boston, MA 02129 (617) 337-4444 MSwain@DHNewEngland.com</p>	<p>SCOTT PAUL COLLINS,</p> <p>By his attorney,</p> <p><u>/s/Matthew T. Desrochers</u> Matthew T. Desrochers, Esq. 274 Main Street, Suite 208 Reading, MA 01867 (781) 279-1822 matthewtdesrochers@gmail.com</p>
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